IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FOURTEENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 24444 of 2002

Between:

Y. Venkateswarulu S/o Challaiah
R/o Narsipatnam, Visakhapatnam District.

..... PETITIONER

AND

1 The A.P.S.R.T.C., Rep. by its Managing Director,
Musheerabad, Hyderabad.
2 The A.P.S.R.T.C., Rep. by its Regional Manager
Visakhapatnam Region, Visakhapatnam.
3 The Depot Manager, A.P.S.R.T.C.,
Visakhapatnam Depot, Visakhapatnam.
4 The Depot Manager, A.P.S.R.T.C.,
Naripatnam Depot, Naripatnam,
Visakhapatnam.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or direction more particularly one in the nature of Writ of 'Mandamus' declaring the action of the respondents in imposing the punishment of deferring decasualisation for a period of 1 1/2 years, without there being any such provision and without holding any departmental enquiry vide proceedings No.P2/1(115)/96-VSP, dated 17-2-1997 and vide proceedings No. M2/2(50)/96-VSP, dt.10-3-1997 which was confirmed by the Review authority vide Proceeding No. PA/19(1)/02-RM-VSP dt. 29-8-2002 and not regularizing the services of the petitioner as illegal, unjust and arbitrary and as such liable to be set aside in the interest of justice consequently directing the respondent herein to regularize the service of the petitioner forthwith.

Counsel for the Petitioner:MR.S.M.SUBHAN

Counsel for the Respondents.: MR.Y.VIVEKANANDA SWAMY

The Court made the following :

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ORDER:

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1. This writ petition is filed to declare the action of the respondents in imposing the punishment of deferring decasualisation for a period of 1 ½ years, without there being any such provision and without holding any departmental enquiry vide Proceedings No.P2/1(115)/96-VSP, Dt.17-2-1997 and vide Proceedings No. M2/2(50)/96/VSP, dated 10-3-1997 which was confirmed by the review authority vide Proceedings No. PA/19(1)/02-RM-VSP, Dt. 29-8-2002 and not regularizing the services of the petitioner as illegal and arbitrary.

2. The petitioner was appointed as Driver on 27-2-1996 in the respondents Corporation and he has been discharging his duties. While so, when he was fell sick and absented from duties he was imposed with punishment of deferring decasualisation for a period of 1 ½ year and the same was confirmed by the appellate and review authorities vide proceedings dated 19-4-1999 and 29-8-2002 respectively. It is the further case of the petitioner that the respondents Corporation without conducting any departmental enquiry imposed the punishment of postponement of decasualisation and under the guise of imposition of punishment keeping him as casual driver without regularizing his services, though he has been working since 27-2-1996 is arbitrary on the part of the respondents. The reviewing authority rejected the case of the petitioner, on the same day, without looking into the fact that whether the principles of natural justice was complied with or not by his subordinate and confirmed the order, which is unjust. Assailing the said order, this writ petition has been filed.

3. The learned counsel for the petitioner vehemently contended that without conducting any enquiry the services of the petitioner has been decasualised for a period of 1 ½ year and the punishment of decasualisation is not provided in the Regulation of the Corporation, and therefore, it is liable to be set aside.

4. On the other hand, the learned Standing Counsel appearing on behalf of the respondents contended that since he is a casual employee, there is no need to conduct any departmental enquiry, because he was facing punishment on earlier occasion and also involved in an accident and therefore, the order of the Corporation does not suffer from any infirmity, so as to call for interference by this Court.

5. It is not disputed before this Court that there is no punishment imposing decasualisation in the regulations of the Corporation for any misconduct committed by the employees of the Corporation.

6. Hence, the question of imposing punishment of decasualisation is contrary to regulation and is liable to be set aside. It is also contended by the learned counsel for the petitioner that without conducting the enquiry, the punishment of deferment of postponement of decasualisation for a period of 1 ½ year, which was confirmed by the appellate and the reviving authority is illegal.

7. The punishment imposed by the disciplinary authority is not one of the punishments prescribed under the Regulation. He has no authority to impose such a punishment, which is not available. Therefore, I deem it appropriate to set aside the same. However, it is left open to the respondent Corporation, if it intends to take any departmental action against the petitioner, it must be done in accordance with the Rules and Regulations of the respondent-Corporation.

8. Accordingly, the writ petition is allowed. No order as to costs.

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Justice K.C.Bhanu,

14th July, 2005 .
KM

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Bilal Nazki, the Acting Chief Justice on this the fourteenth day of July, two thousand and five.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Managing Director,A.P.S.R.T.C.,

Musheerabad, Hyderabad.
2 The Regional Manager, A.P.S.R.T.C., Visakhapatnam Region, ...
.Visakhapatnam.
3 The Depot Manager, A.P.S.R.T.C.,
Visakhapatnam Depot, Visakhapatnam.
4 The Depot Manager, A.P.S.R.T.C.,
Naripatnam Depot, Naripatnam,
Visakhapatnam.

5. 2 CD copies

6. 1 CC to MR.SUBHAN

THE HON'BLE MR JUSTICE K.C. BHANU

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WRIT PETITION NO : 24444 of 2002

14TH JULY, 2005